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SUBJECT: SCHOOL TAX AGREEMENT UPDATE

¶1. (SBU/NF) Summary: Following completion of consultations with Department offices and the five officially supported American schools in Morocco, Mission has moved to engage senior GOM officials on the issue of concluding a bilateral agreement to give the schools legal status and shield them from Moroccan taxes, including payroll and social security taxes. Ambassador spoke directly to Prime Minister Jettou about the issue, and provided Jettou a follow-on letter with a description of what the Mission is seeking, i.e., tax treatment of the American schools that provides parity to that enjoyed by French and Spanish schools in Morocco. (Text of Ambassador's letter follows in para 10.) The Prime Minister expressed confidence that a solution to the issue of the schools' long-term status could be found, and asked to meet with the Ambassador to discuss the matter in greater detail after he had had an opportunity to review the issue with relevant ministries.

¶2. (SBU/NF) One senior Moroccan businessman, who serves as a trustee of one of the schools, suggests that the window of opportunity for conclusion of such an agreement could close with Jettou's departure from office, which may occur following elections later this year (date for the elections has not yet been determined, but most likely time frame is the fall). While most of the concerned American schools in Morocco that would benefit from an agreement (Rabat, Casablanca, Tangiers, George Washington Academy and Marrakech schools) report no difficulties with Moroccan officials, our initiative comes against the backdrop of intensifying efforts by Casablanca tax authorities to collect back payroll taxes from the Casablanca American School (CAS). End Summary.

¶3. (SBU/NF) Building on post's October 30 DVC with Washington offices, post used the ensuing six weeks to meet with the five concerned American schools for a comprehensive review of their specific situations and concerns in preparation for moving forward with discussions with Moroccan officials. As expected, the meetings revealed a range of approaches to the problem of operating in an environment with no clear legal framework, with the schools falling into two broad categories regarding the key question of payroll and social security taxes. While all five schools paid Moroccan social security taxes for their local Moroccan employees, both the Casablanca and Rabat American Schools do so via the Embassy Cooperative Association, officially registering their local staff as ECA rather than school employees. Those two schools also do not pay Moroccan payroll taxes for either local or expatriate employees. In contrast, the Tangier American School, its Marrakech offshoot, and the George Washington Academy (GWA) pay both payroll and social security directly for their local employees. The Tangier and Marrakech schools also pay Moroccan payroll taxes for their American staff, but they make contributions to FICA through their American foundation for them, rather than pay Moroccan social security taxes.

George Washington Academy does not pay either payroll or social security taxes for its expatriate employees, but does hold back a sum sufficient to cover one year of payroll taxes as a reserve.

¶4. (SBU/NF) All the schools agreed that an agreement clearly defining and effectively limiting their obligations vis-a-vis the Moroccan state is essential to allow them to plan effectively for the future, and pressed for any such agreement to shield them to the maximum extent possible from imposition of Moroccan taxes. Ideally, both Rabat and Casablanca American Schools argued, such an agreement should ratify the status quo whereby the schools are effectively exempt from Moroccan payroll and social security taxes. Both schools reluctantly conceded that it might prove impossible to shield their local Moroccan employees from taxation, but they urged that the effort be made nonetheless.

¶5. (SBU/NF) Though the schools concurred on the need for an agreement, only the Casablanca American School reported any effort by Moroccan tax authorities to press for payment of payroll taxes for school employees, noting that a September 2006 tax letter was put off with Congen Casablanca assistance. Indeed, at year's end Casablanca tax authorities renewed their efforts to collect allegedly due back taxes, sending a letter to the school warning that unless payment was made immediately, the 3.35 million USD "owed" by the school for payroll taxes for 2002-2005 would automatically increase by 10 percent to 3.68 million USD. No such approach has been made to the Rabat American School or George Washington Academy. The American Schools in Tangier and Marrakech, which make the payroll tax payments, did report efforts by social security inspectors to receive formal documentation justifying their refusal to pay Moroccan social security taxes.

¶6. (SBU/NF) Recognizing that an agreement along the lines desired by the schools will require a political decision by the Moroccan government, and cannot be secured at a technical level (as our earlier negotiations in 2004 demonstrated), post's school tax agreement goal team recommended that the Ambassador raise the issue with the Prime Minister Jettou, himself a trustee of the Casablanca American school.

¶7. (SBU/NF) In a recent conversation in Casablanca with the Consul General, a senior and well-connected Casablanca businessman who is a trustee of the CAS school board agreed with Mission's strategy. Conclusion of an agreement along the lines desired by the U.S. would require a political decision, he said, and he warned that involvement of the Finance Ministry early in the process would be counterproductive, given its exclusive focus on augmenting Morocco's collection of tax revenues. He noted that Casablanca Mayor Mohammed Sajid had raised the CAS school tax issue with the Prime Minister, and that Jettou had said he would "fix it." This observer agreed that the U.S. should press for full exemption of school employees from Moroccan taxation at the outset, but conceded that at the end of the day it would likely not be possible to shield Moroccan national employees. He speculated that the current pressure on the Casablanca American School stems from the fact that George Washington Academy is paying tax on its employees, and warned that including GWA in an agreement "weakens" the U.S. negotiating stance. He added that it is important that an agreement be reached before this fall's elections, as a future Moroccan government may not be as "sympathetic" to the schools' concerns.

¶8. (SBU/NF) Ambassador Riley approved the goal team's recommendation and raised the issue of a bilateral school agreement in a phone conversation with Prime Minister, who agreed to meet in the near future to discuss the subject in depth, after investigating it with relevant ministries. Ambassador followed up with a letter setting out in more detail U.S. concerns and our desire to ratify the status quo via a formal agreement. Recognizing that the status quo varies from school to school, the letter pressed for

formalization of the regime that has in practice been applied to the Rabat and Casablanca American schools, arguing that this "unwritten agreement" has served the needs of both Morocco and the schools themselves over the course of their 45-year history. The Ambassador highlighted the importance of the American schools to international investors and the support that the U.S. provides them (862,000 USD in one recent scholarship program with the Rabat American School) to enable Moroccan students to attend for whom the school would otherwise be inaccessible. The letter also drew a parallel with the privileges accorded to Spanish and French schools in Morocco, noting that while our national systems are different, the schools serve the same function, and should enjoy similar privileges.

19. (SBU/NF) Comment: The ball is now in the Prime Minister's court, and we are hopeful that a meeting on the issue will be scheduled in the near future. Once it occurs, we will extend our contacts on the subject through relevant parts of the Moroccan government. End Comment.

110. (SBU) Text of Ambassador Riley's letter to Prime Minister Jettou:

Dear Mr. Prime Minister,

Further to our telephone conversation this morning, I appreciate your willingness to meet in the near future to discuss the status of the five State Department-supported American schools in Morocco.

As you know, since the founding of the Rabat American School in 1962, these institutions have played an important role in building bridges between the United States and Morocco. Their contribution is reflected in the distinguished roster of their alumni, including senior American diplomats and many high-ranking Moroccan government officials. Recognizing the contribution the schools make to cross-cultural understanding this year the U.S. government has granted \$862,000 to the Rabat American School to enable it to provide scholarships to Moroccan students who would not otherwise be able to attend the school.

I believe that in this era of globalization and international competition for foreign direct investment, the schools play a more important role than ever, as leading multinationals are often reluctant to invest when there is not a range of

international educational options for their expatriate personnel.

I am concerned, however, that the schools' ability to continue to fulfill their function may be in jeopardy. For the 45 years of their history, the schools have operated on the basis of an unwritten agreement between the U.S. and Moroccan governments, which has effectively exempted them from payment of a number of Moroccan taxes, thereby enabling them to make their education accessible to students not just from the international diplomatic and business communities, but also to many Moroccan students as well.

Recent efforts by Moroccan tax authorities to enforce payment of payroll taxes by one school call into question that unwritten agreement. The U.S. schools agree that a formal accord outlining the schools' obligations and status is necessary to allow them to plan effectively for the future and to grow as institutions.

I believe such an agreement should provide the U.S. schools a status similar to that of French and Spanish schools and teachers in Morocco. This would provide the schools with a legal personality under Moroccan law and effectively codify the unwritten understanding that has governed their operation in the past.

I understand that the situation is complicated by the fact that the American education system is very different from that in France and Spain, given its lack of central

administration and direction, but believe the schools and their personnel should receive similar benefits and protections, since they provide the same service.

I look forward to discussing this issue with you in more detail in the weeks ahead, but wanted to take the opportunity to highlight my concerns in advance of that meeting.

Sincerely,  
Thomas T. Riley

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Visit Embassy Rabat's Classified Website;  
<http://www.state.sgov.gov/p/nea/rabat>  
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Riley